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UNITED STATES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHINA CENTRAL TELEVISION, a China company; CHINA INTERNATIONAL COMMUNICATIONS CO., LTD., a China company; TVB HOLDINGS (USA), INC., a California corporation; and DISH NETWORK L.L.C., a Colorado corporation,
Plaintiffs,

CREATE NEW TECHNOLOGY (HK) LIMITED, a Hong Kong company; HUA YANG INTERNATIONAL TECHNOLOGY LIMITED, a Hong Kong company; SHENZHEN GREATVISION NETWORK TECHNOLOGY CO. LTD., a China company; CLUB TVPAD, INC., a California corporation; BENNETT WONG, an individual, ASHA MEDIA GROUP INC. d/b/a TVPAD.COM, a Florida corporation; AMIT BHALLA, an individual; NEWTVPAD LTD. COMPANY d/b/a NEWTVPAD.COM a/k/a TVPAD USA, a Texas corporation; LIANGZHONG ZHOU, an individual; HONGHUI CHEN d/b/a E-DIGITAL, an individual; JOHN DOE 1 d/b/a BETV; JOHN DOE 2 d/b/a YUE HAI; JOHN DOE 3 d/b/a 516; JOHN DOE 4 d/b/a HITV; JOHN DOE 5 d/b/a GANG YUE; JOHN DOE 6 d/b/a SPORT ONLINE; JOHN DOE 7 d/b/a GANG TAI WU XIA; and JOHN DOES 8-10.

} Case No.
} CV 15-1869 MMM (AJWx)

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW IN
SUPPORT OF PLAINTIFFS'
MOTION TO HOLD
DEFENDANT CREATE NEW
TECHNOLOGY (HK) IN
CONTEMPT**

) Hearing: October 13, 2015

{ Time: 10:00 a.m.

} Courtroom: 780

} Judge: Hon. Margaret M.
} Morrow

{ Complaint Filed: March 13, 2015

1 This matter came on before the Court on October 13, 2015 on the motion of
 2 Plaintiffs China Central Television, China International Communications Co., Ltd.,
 3 TVB Holdings (USA), Inc., and DISH Network L.L.C. (collectively, "Plaintiffs") to
 4 hold Defendant Create New Technology (HK) Limited ("CNT") in contempt.
 5 Pursuant to Local Rule 7-9, any opposition to Plaintiffs' motion was required to be
 6 filed and served not later than September 22, 2015. No opposition was timely filed,
 7 nor has any been filed since that time. Having considered Plaintiffs' Motion for
 8 Contempt, the Memorandum of Points and Authorities in Support of the Motion, and
 9 the declarations, exhibits, and reply papers in support thereof; having given CNT the
 10 opportunity to appear and be heard at a hearing on October 13, 2015 (an opportunity
 11 of which CNT did not avail itself); and good cause appearing, the Court makes the
 12 following findings of fact and conclusions of law:

13 **A. FINDINGS OF FACT**

14 1. On March 16, 2015, Plaintiffs filed their Complaint and,
 15 contemporaneously, filed a Motion for Preliminary Injunction against CNT. CNT
 16 did not oppose the motion, and subsequently defaulted; its default was entered on
 17 May 28, 2015. (Doc. Nos. 87, 88.) The Court entered a preliminary injunction ("PI
 18 Order") on June 11, 2015. (Doc. No. 98). The Court also entered detailed findings of
 19 fact and conclusions of law on June 11, 2015, which are incorporated by reference
 20 herein as if fully set forth. (Doc. No. 97.)

21 2. The Court's PI Order preliminarily enjoined CNT from:

- 22 a. Transmitting, retransmitting, streaming, or otherwise publicly
 performing, directly or indirectly, by means of any device or
 process, Plaintiffs' Copyrighted Programming;
- 23 b. Authorizing, hosting, reproducing, downloading or otherwise
 distributing Infringing TVpad Apps, including, without
 limitation, offering them in the TVpad Store, loading them onto

- 1 TVpad devices, or providing them to consumers on separate
2 media;
- 3 c. Advertising, displaying, marketing or otherwise promoting any
4 of the Infringing TVpad Apps, including, without limitation,
5 publicly displaying any of the Plaintiffs' Copyrighted
6 Programming in connection therewith or in connection with the
7 TVpad Device;
- 8 d. Distributing, advertising, marketing or promoting any TVpad
9 device that contains, connects to, or offers for download any
10 Infringing TVpad App, or promotes any Infringing TVpad App
11 through the inclusion of icons for said Infringing TVpad App;
12 and
- 13 e. Otherwise infringing Plaintiffs' rights in their Copyrighted
14 Programming, whether directly, contributorily, vicariously or in
15 any other manner.

16 (Doc. 98 at 3-4.)

17 3. CNT has received repeated notices of the PI Order through multiple
18 methods. First, the June 11 entry of the PI Order on the electronic docket constituted
19 service of the PI Order on CNT through its counsel of record (who had not yet been
20 granted leave to withdraw).

21 4. Second, on June 17, 2015, Plaintiffs' counsel emailed notice of the PI
22 Order to CNT. (Declaration of Lacy H. Koonce III ("Koonce Decl.") ¶3, Exh. 19.)

23 5. Third, on June 17, 2015, Plaintiffs' solicitor personally served copies of
24 the PI Order at CNT's registered Hong Kong address. (Koonce Decl. ¶4, Exh. 20.)

25 6. Fourth, on June 18, 2015, Plaintiffs received confirmation that CNT's
26 U.S. counsel of record had sent copies of the PI Order via Federal Express to CNT's
27 last known address, prior to the date the court granted his motion to withdraw.

28 (Koonce Decl. ¶2, Ex. 18.)

1 7. Finally, on June 17, 2015, CNT was personally served with copies of the
 2 court's findings of fact and conclusions of law by Plaintiffs' solicitor at CNT's
 3 registered Hong Kong address. (Koonce Decl. ¶4, Ex. 20.) The findings and
 4 conclusions cite the evidence Plaintiffs filed in support of their motion for
 5 preliminary injunction, which not only identified the specific Infringing TVpad Apps
 6 the court ordered CNT to cease offering on the TVpad, but also identified the specific
 7 CNT website pages, Facebook pages and fan forums that CNT has been using to
 8 market and advertise the Infringing TVpad Apps. (Doc. No. 97.)

9 8. Despite receiving repeated notice of the Court's PI Order, CNT
 10 consistently has ignored and violated the PI Order as set forth more fully below.

11 9. From June 18 to 22, 2015, Plaintiff TVB tested the availability of its
 12 programs through the video-on-demand ("VOD") features of three of the fifteen
 13 Infringing TVpad Apps – specifically, the Gang Yue Kuai Kan app, the Gang Yue
 14 Wang Luo Dian Shi app, and the Gang Tai Wu Xia app – to determine whether CNT
 15 was transmitting TVB's copyrighted programming through any of the fifteen
 16 Infringing TVpad Apps in violation of the PI Order. (Declaration of Samuel P.
 17 Tsang ("Tsang Decl."), Docket No. 23-1, p. 110-12, ¶¶ 8-10; see also Declaration of
 18 Christopher Weil ("Weil March Decl."), Docket No. 23-1, pp. 14-16, ¶ 26; PI Order
 19 at 2 and Exh. B.)

20 10. During just this short test period, TVB confirmed that 2,388 separate
 21 episodes of TVB programs (1,781 of which are registered with the United States
 22 Copyright Office) were still being offered on TVpad devices through three Infringing
 23 TVpad Apps in violation of the PI Order. (Tsang Decl., ¶ 10.)

24 11. The 2,388 infringed programs include all but one of the copyrighted
 25 programs TVB had identified in its motion for preliminary injunction. In a later test
 26 by TVB on August 24, 2015, the missing title reappeared on the VOD menu and was
 27 available for streaming. (Tsang Decl., ¶ 9.)

1 12. In further testing conducted by TVB between August 7 and 10, 2015,
 2 more than 1,700 TVB episodes continued to be streamed through three of the
 3 Infringing TVpad Applications on the TVpad device. (Tsang Decl., ¶ 12.)

4 13. The tested programming does not constitute all TVB programming that
 5 CNT is currently infringing through these apps, but only the limited content TVB
 6 confirmed was being streamed through the Infringing VOD apps over a short span of
 7 time. (Tsang Decl., ¶ 13.)

8 14. During an August 20, 2015 test, TVB confirmed that 510 additional
 9 episodes of 24 TVB television programs that it had not previously checked were now
 10 available through the TVpad device. As some of these episodes had only recently
 11 aired on TVB channels in Hong Kong and the United States, their appearance on the
 12 TVpad device confirms that CNT continues to convert TVB programming to VOD
 13 content immediately after it is aired in China. (*Id.*)

14 15. After the court entered the PI Order, Plaintiffs' investigators ran tests on
 15 the TVpad3 and TVpad4 devices they had purchased during their investigation for
 16 several months and confirmed constant streaming, 24 hours a day, 7 days a week, of
 17 CCTV and TVB programming. (Declaration of Nicholas Braak ("Braak Decl."),
 18 Docket No. 23-1, pp. 49-51, ¶¶ 7-13.)

19 16. Specifically, Plaintiffs' investigators determined that 14 of 15 of the
 20 Infringing TVpad Apps continued to be available in the TVpad Store for download.
 21 Moreover, all previously downloaded versions of the 15 Infringing TVpad Apps
 22 continued to function on one or more TVpad device models. (Braak Decl., ¶ 6.)
 23 Access to the Infringing TVpad Apps and concurrent streaming of Plaintiffs'
 24 copyrighted programs continued unabated. (Braak Decl., ¶ 6.)

25 17. In the same manner that they did prior to entry of the PI Order, the
 26 TVpad3 and TVpad4 devices continued to operate as peers in a peer-to-peer network
 27 – allowing TVpad users to retransmit CCTV and TVB programs to other TVpad
 28 users. (Braak Decl., ¶ 9.)

1 18. In addition, following entry of the PI Order, Plaintiffs' investigators
 2 purchased a new TVpad4 device from the official TVpad Store that CNT runs on the
 3 website www.mtvpad.com. They subsequently tested the new TVpad4 device and
 4 confirmed that the terms and conditions accessible on first use of the TVpad4 device
 5 continue to identify Create New Technology (HK) Limited as the manufacturer of
 6 the device. (Declaration of Christopher Weil ("Weil August Decl."), Docket No.
 7 109-1, pp. 17-18, ¶¶ 4-6 and Exhs. 24-25; Braak Decl., ¶ 15, Exh. 26.)

8 19. Plaintiffs' investigators also confirmed that the opening screens and
 9 TVpad Store on the new TVpad4 device continue to market and advertise several of
 10 the Infringing TVpad Apps. (Compare Braak Decl. ¶ 26 with Declaration of
 11 Nicholas Braak ("March Braak Decl."), Docket No. 23-1, ¶ 29.)

12 20. Plaintiffs' investigators determined that all nine of the Infringing TVpad
 13 Apps they previously concluded were available for download on the TVpad4 device
 14 continue to be listed on the TVpad Store, and are available for download. (Compare
 15 Braak Decl., ¶ 16 with March Braak Decl., ¶ 16.) All of the Infringing TVpad Apps
 16 continue to provide CCTV and TVB programs via VOD, Time-Shift, Live TV and
 17 Replay Live modes in the same manner as before the injunction was issued. (Braak
 18 Decl., ¶ 16.)

19 21. Finally, Plaintiffs' investigators determined that the Infringing TVpad
 20 Apps that they downloaded to the new TVpad4 device continue to stream CCTV and
 21 TVB programming 24 hours a day, each day of the week. (*Id.*)

22 22. Nor have there been any material changes in CNT's advertising and
 23 marketing practices following entry of the injunction. Not only has CNT taken no
 24 steps to remove the marketing content barred under the PI Order from its websites; it
 25 has exacerbated its infringement by displaying barred advertising from its former
 26 website (located at itvpad.com) on a new website (located at mtvpad.com).
 27 (Compare March Weil Decl., ¶¶ 18, 25(d), 32 and 65-66 and Exhs. 7, 14 and 15 with
 28

1 Declaration of George P. Wukoson (“Wukoson Decl.”), Docket No. 109-1, pp. 4-8,
 2 ¶¶ 5-8, 13 and Exhs. 2-4 and 9.)

3 23. In addition, when migrating its itvpad.com blog over to its new
 4 mtvpad.com blog, CNT retained blog entries in which it recommended certain
 5 Infringing TVpad Apps (compare March Weil Decl., ¶¶ 34, 37 and Exhs. 16, 19 with
 6 Wukoson Decl., ¶¶ 9, 12 and Exhs. 5, 8). These entries tout the availability of TVB
 7 content on various Infringing TVpad Apps (compare March Weil Decl., ¶ 35 and
 8 Exh. 17 with Wukoson Decl., ¶¶ 10-11 and Exhs. 6-7).

9 24. Similarly, CNT continues to operate and promote its official fan forum,
 10 where posts about the availability of Plaintiffs’ copyrighted programs and how to
 11 access them through the Infringing TVpad Apps remain; there are also new posts
 12 added since entry of the PI Order. (Wukoson Decl., ¶¶ 20-22.)

13 25. Finally, CNT’s Facebook page remains materially unchanged, in that it
 14 retains posts that advertise and encourage the use of the Infringing TVpad Apps to
 15 watch TVB and CCTV programs, and provide assurances that viewing the
 16 programming is legal. (Wukoson Decl., ¶¶ 14-18 and Exhs. 10-13.) Further, in
 17 recent posts following entry of the injunction, CNT has continued to promote the
 18 same Infringing TVpad Apps the court enjoined it from marketing and advertising,
 19 and to encourage their use to watch TVB and CCTV programs. (Wukoson Decl., ¶
 20 19 and Exh. 14.)

21 26. The TVpad Fan Forum, which CNT operates and moderates, also
 22 continues to display new posts that tout the availability of Plaintiffs’ copyrighted
 23 programming in violation of the PI Order. In a recent post dated July 2015, for
 24 example, a user commented on the availability of Wimbledon tennis on the CCTV
 25 sports channel on TVpad. (Wukoson Decl., ¶ 21 and Exh. 16.) In another July 2015
 26 post, a user commented on the availability of the World Swimming Championships
 27 on a CCTV channel through the TVpad. (*Id.*)

28

1 27. Elsewhere on the TVpad Fan Forum, CNT encouraged a user to post a
 2 detailed review of the TVpad4 device, and to compare it to competitors. After the
 3 user touted the fact that he or she began to use the TVpad to avoid paying \$40 a
 4 month for a Jade subscription – the DISH subscription package that offers authorized
 5 TVB content – the user explained why the TVpad4 is a better device than
 6 alternatives, including the fact that it does not require a payment of a subscription fee
 7 and offers better quality streaming than other competing “free” devices. The TVpad
 8 moderator marked this thread a favorite, allowing more TVpad users to identify the
 9 post easily on the Fan Forum. (*Id.*, ¶ 22 and Exh. 17.)

10 28. Finally, since entry of the PI Order, CNT has continued to use Plaintiffs'
 11 copyrighted programming in direct marketing pitches to customers, including
 12 through emails touting the availability of Plaintiffs' copyrighted programming.
 13 TVB's former Director of Programming, for example, received two direct advertising
 14 emails from CNT offering specials on the TVpad device. One of those emails
 15 displayed an image from one of TVB's copyrighted TV programs to solicit sales of
 16 the TVpad. (Tsang Decl., ¶¶ 14-15 and Ehxs. 22-23.)

17 29. Plaintiffs have expended in excess of \$34,680.60 in attorneys' fees
 18 preparing a contempt motion, including time spent researching, drafting and
 19 compiling evidence in support of the motion. (Declaration of Carla A. McCauley
 20 (“McCauley Decl.”), Docket No. 109-1, pp. 39-40, ¶¶3-4; Wukoson Decl., ¶ 23.)

21 **B. CONCLUSIONS OF LAW**

22 1. “A court has wide latitude in determining whether there has been
 23 contemptuous defiance of its order.” *Gifford v. Heckler*, 741 F.2d 263, 266 (9th Cir.
 24 1984). The Ninth Circuit’s standard regarding the propriety of contempt sanctions
 25 “has long been whether the defendants have performed all reasonable steps within
 26 their power to insure compliance with the court’s orders.” *Stone v. City & Cnty. of
 27 San Francisco*, 968 F.2d 850, 856 (9th Cir. 1992) (internal citations omitted).

1 2. “The party moving for contempt bears the burden of establishing by
 2 clear and convincing evidence that the contemnor has violated a specific and definite
 3 order of the court.” *Bademyan v. Receivable Management Services Corp.*, Case No.
 4 CV 08-00519 MMM (RZx), 2009 WL 605789, *2 (C.D. Cal. Mar. 9, 2009) (citing
 5 *Wolfard Glassblowing Co. v. Vanbragt*, 118 F.3d 1320, 1322 (9th Cir. 1997); *Balla*
 6 *v. Idaho State Bd. of Corrections*, 869 F2d 461, 466 (9th Cir. 1989)).

7 3. Plaintiffs have established that the PI Order is clear and is not
 8 susceptible of any reasonable interpretation that would explain CNT’s failure to take
 9 steps to comply with the order. Specifically, Plaintiffs have met their burden of
 10 showing that under the PI Order, CNT was required to cease transmitting or
 11 retransmitting Plaintiffs’ Copyrighted Programming, as that term is defined in the PI
 12 Order, including by reference to numerous specific examples of infringed content.

13 4. Plaintiffs have also established that the PI Order clearly states that CNT
 14 must cease providing access to or distributing specifically identified Infringing
 15 TVpad Apps that stream Plaintiffs’ Copyrighted Programming, including by
 16 reference to a precise list of Infringing TVpad Apps. (Doc. No. 98, Exh. B.)
 17 Finally, Plaintiffs have established that the PI Order clearly directs that CNT not
 18 advertise, display or market the Infringing TVpad Apps, nor take steps to market the
 19 TVpad by referencing the Infringing TVpad Apps. In support of their motion for
 20 contempt, Plaintiffs have proffered clear and convincing evidence that CNT has
 21 violated, and continues to violate, the provisions of the PI Order.

22 5. Plaintiffs have also established that CNT received notice of the PI Order
 23 and the findings of fact and conclusions of law supporting it as early as June 17,
 24 2015, when they were emailed to CNT and personally served at its Hong Kong
 25 address.

26 6. “Once the moving party shows by clear and convincing evidence that
 27 the contemnor has violated a specific and definite order of court, the burden shifts to
 28 the contemnor to demonstrate that he or she took every reasonable step to comply,

1 and to articulate reasons why compliance was not possible.” *Bademyan*, 2009 WL
2 605789, at *2 (citing *Donovan v. Mazzola*, 716 F.2d 1226, 1240 (9th Cir. 1983)).

3 7. “Intent is not an issue in civil contempt proceedings. The sole question
4 is whether a party complied with the district court’s order.” *Donovan v. Mazzola*,
5 716 F.2d 1226, 1240 (9th Cir. 1983) (internal citations omitted).

6 8. By failing to file any response to Plaintiffs’ motion for contempt, CNT
7 has failed to meet its burden of showing that it took reasonable steps to comply with
8 the PI Order. Nor has it articulated any reason why compliance was not possible.

9 9. Through the Tsang and Braak Declarations, Plaintiffs have
10 demonstrated that CNT has failed to take any steps to remove or disable the
11 availability of Plaintiffs’ copyrighted programming from its TVpad device; to
12 remove or disable the 15 Infringing TVpad Apps identified in the PI Order; or to take
13 any steps to remove marketing materials from its websites that encourage
14 infringement of Plaintiffs’ copyrighted programming. Indeed, CNT has expanded its
15 infringement, by displaying content that was the subject of the PI Order on a new
16 website and adding new Facebook and blog entries that continue to encourage
17 infringement, in direct violation of the order. Finally, CNT has continued to sell the
18 TVpad device into the United States, which affords purchasers full access to the
19 Infringing TVpad Apps and Plaintiffs’ copyrighted programming in violation of the
20 PI Order.

21 10. Plaintiffs have therefore established that CNT has acted in contempt of
22 all aspects of the PI Order.

23 11. Once a violation of a court order has been shown, civil contempt
24 sanctions may be imposed. Civil contempt sanctions are employed “to coerce the
25 defendant into compliance with the court’s order, and to compensate the complainant
26 for losses sustained.” *Whittaker Corp. v. Execuair Corp.*, 953 F.2d 510, 517 (9th Cir.
27 1992); see also *Citizens for Lawful and Effective Attendance Policies v. Sequoia*
28 *Union High School District*, No. C 87-3204 MMC, 1998 WL 305513, *4 (N.D. Cal.

1 June 4, 1998) (“Such remedial sanctions may take two forms – sanctions designed to
2 coerce future compliance with the underlying order, or sanctions designed to
3 compensate for actual losses caused by noncompliance with the underlying order”).

4 12. Civil coercive sanctions by their very nature are “conditional” –
5 meaning that “they only operate if and when the person found in contempt violates
6 the order in the future.” *Id.* (internal citation omitted). Civil contempt sanctions that
7 are coercive in nature are paid to the district court. See *General Signal Corporation*
8 *v. Donallco, Inc.*, 787 F.2d 1376, 1380 (9th Cir. 1986).

9 13. “A court, in determining the size and duration of a coercive fine, must
10 ‘consider the character and magnitude of the harm threatened by continued
11 contumacy, and the probable effectiveness of any suggested sanction in bringing
12 about the result desired.’” *Whittaker Corp.*, 953 F.2d at 516 (citing *United States v.*
13 *United Mine Workers of America*, 330 U.S. 258, 304 (1947)).

14 14. Compensatory sanctions, in contrast, are paid to the party bringing the
15 civil contempt motion and are intended to compensate for losses suffered as a result
16 of the contemptuous conduct. *Portland Feminist Women’s Health Center v.*
17 *Advocates for Life, Inc.*, 877 F2d 787, 790 (9th Cir. 1989). Such compensatory
18 sanctions may include the costs incurred in filing a motion for contempt, including
19 reasonable attorneys’ fees. *Id.*

20 15. Given CNT’s obvious and extensive acts of copyright infringement,
21 complete disregard of the PI Order and the likely harm being suffered by Plaintiffs
22 on a daily basis, a significant coercive sanction of \$5,000 per day for every day that
23 CNT fails to comply with the PI Order is merited.

24 16. A \$5,000 per day fine is consistent with the coercive sanctions imposed
25 by other courts in this Circuit under similar factual circumstances. See, e.g.,
26 *NuScience Corp. v. Henkel*, No. CV 08-2661 R (FFMx), 2015 WL 103378, *1 (C.D.
27 Cal. Jan. 5, 2015) (ordering “payment of a fine to the Court of \$5,000 per diem, until
28 such time as (a) all offending websites, Facebook posts, and other Internet material

1 are taken down; and (b) the Court is provided with satisfactory sworn evidence of the
2 removal of the offending material and the steps taken to prevent its reappearance.
3 Such per diem fine should not commence until 14 days after entry of the Court's
4 order finding Joseph and Sharon Henkel in contempt"); *Fed. Trade Comm'n v.*
5 *Productive Mktg., Inc.*, 136 F.Supp.2d 1096, 1113 (C.D. Cal. 2001) ("the court
6 imposes a per diem fine of \$50 for the first day of noncompliance, with the amount
7 doubling for every additional day of noncompliance," with the result that sanctions
8 would be more than \$5,000 per day within 7 days).

9 17. Since CNT has completely disregarded the PI Order, resulting in
10 ongoing infringement of thousands of copyrighted works on a daily basis, a \$5,000
11 per day fine pending CNT's compliance with the order is entirely appropriate.¹

12 18. "The Ninth Circuit has [also] held that a court may sanction a contemnor
13 by ordering that she pay a party's attorneys' fees and costs." *Bademyan*, 2009 WL
14 605789 at *4.

15 19. Where the moving party has incurred time and expense filing in a
16 motion to enforce compliance with a court order, and the contemnor has taken no
17 steps to comply with the order, an attorneys' fees award is particularly appropriate.
18 *Id.*

19 20. Once a party establishes its entitlement to an attorneys' fees award, the
20 court must determine whether the award is reasonable, including with reference to
21

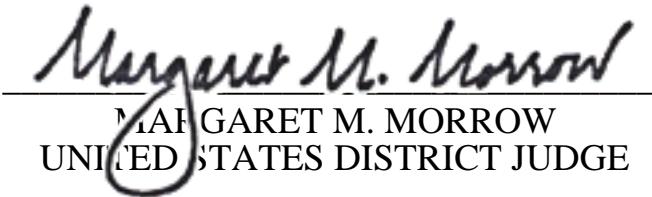
22 ¹ At the hearing, plaintiffs argued that the daily sanction should be \$10,000,
23 citing, *inter alia*, the fact that CNT was generating \$14,582.30 in revenue a day from
24 sales of TVPads in the United States (($\$25,460,691.00 / 1,746$ days since 1/1/11)).
25 Plaintiffs do not identify (or even provide a reasonable estimate) as to what portion
26 of this revenue is profit, which in the court's view is the more relevant figure.
27 Plaintiffs also asserted that, had CNT streamed content legally, it would by now have
28 had to pay \$191,414,470 in licensing fees per day ($\$279,465,120 / 1,460$ days in four
years). The court finds this calculation less relevant, as the issue is coercing
compliance with the court's order rather than with compelling it to pay license fees.
In light of the fact that CNT's daily gross revenue is approximately \$14,500, and it
undoubtedly has costs associated with generating that revenue, the court concludes a
\$5,000 a day sanction is appropriate.

1 the court's own "experience with similar cases and its knowledge of prevailing rates
2 in the community." *Id.* at *5.

3 21. Plaintiffs' requested attorneys' fees of \$34,680.60, representing only a
4 portion of the fees incurred in connection with this proceeding to hold CNT in
5 contempt, are consistent with other attorneys' fees awards in this Circuit for similar
6 motions and are reasonable based on the court's knowledge of prevailing rates in the
7 community. See, e.g., *Honor Plastic Indus. Co. Ltd. v. Lollcup USA, Inc.*, No. CIV-
8 F-06-0707 AWI DLB, 2007 WL 1655786 (E.D. Cal. June 7, 2007) (awarding
9 \$90,648.40 in attorneys' fees and costs following a contempt motion in trademark
10 action); see also *Koninklijke Philips Electronics N.V. v. KXD Technology, Inc.*, 539
11 F.3d 1039, 1041 (9th Cir. 2008) (detailing an award of \$353,611.70 for attorneys'
12 fees as part of contempt sanctions).

13 Based on these findings of fact and conclusions of law, the court holds
14 Defendant Create New Technology (HK) Limited in contempt. It orders that CNT
15 pay a fine to the court of \$5,000 per day until such time as it complies with the terms
16 of the June 11, 2015 PI Order. The per diem fine will commence 14 days after entry
17 of this order finding Defendant Create New Technology (HK) Limited in contempt.
18 The court further awards attorneys' fees in the amount of \$34,680.60.

19
20
21 DATED: November 4, 2015.

22 
23 MARGARET M. MORROW
24 UNITED STATES DISTRICT JUDGE
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